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BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES

Application Number: 10/765,576
Filing Date: January 26, 2004
Appellant(s): COULOMBE ET AL.

Steven T. Cooper (Reg. No. 65,716)
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed December 22, 2010 appealing from the Office action mailed March 24, 2010.

(1) Real Party in Interest

The examiner has no comment on the appellants' statement identifying the real party in interest contained in the brief.

(2) Related Appeals and Interferences

The examiner is not aware of any related appeals, interferences, or judicial proceedings, which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

(3) Status of Claims

The appellants' statement of the status of claims contained in the brief is correct.

(4) Status of Amendments

The appellants' statement of the status of amendments after contained in the brief is correct.

(5) Summary of Claimed Subject Matter

The examiner has no comment on the appellants' summary of claimed subject matter contained in the brief.

(6) Grounds of Rejection to be Reviewed on Appeal

The examiner has no comment on the appellant's statement of the grounds of rejection to be reviewed on appeal.

(7) Claims Appendix

The appellants' copy of the appealed claims contained in the Appendix to the brief is correct.

(8) Evidence Relied Upon

US 7,133,925	Mukherjee et al.	11-2006
US 6,970,935	Maes	11-2005

(9) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claims 1-21, 24, 27, 30, 33, 36-38, 41, 42, and 48 are rejected under 35 U.S.C. 103(a) as being unpatentable over Mukherjee et al. (US 7,133,925) in view of Maes (US 6,970,935).

INDEPENDENT:

As per **claim 1**, Mukherjee teaches a method by which a multimedia data is transcoded en route from a sending terminal via a messaging server to a receiving terminal, the method comprising:

a user agent of the sending terminal inserting, into the multimedia data, media characteristics of the multimedia data sufficient in detail to enable determining whether the multimedia data should be transcoded to accommodate multimedia capabilities of the receiving terminal (see col.3, lines 42-52: "The media source provides scalable encoded media data in a format including first and second portion where the first portion corresponds at least to non-media type specific scalability attributes of the original encoded media data"; and col.14, lines 3-21: "the receiving attributes to the transcoder thereby enable the transcoder to provide the scaled version of the formatted data…the single bit-stream of formatted media data generated by the transcoder 90 and 91 will provide formatted media data that is adapted to the receiving attributes of both of the receiving destinations 93 and 94 and transcoder 92 generates individual formatted media data bit-streams each adapted to the capabilities of one of receiving destinations 93 and 94"), wherein the multimedia data has a header portion and a body portion, and the media characteristics of the multimedia data are inserted into a field in the header portion of the multimedia data (see Fig.3A; Fig.3B; and col.7, lines 1-25: "If however the

flag indicates that the parcel is scalable and non-media type specific format compliant, then the component description follows in the header"); and

the messaging server reading the media characteristics of the multimedia data and deciding whether the multimedia data should be transcoded based only on the inserted media characteristics of the multimedia data and actual or assumed multimedia capabilities of the receiving terminal (see col.3, lines 56-62: "The transcoder transcodes the formatted original scalable encoded media data prior to delivery to the media destination to generate a scaled version of the formatted original scalable encoded media data, based on matching the scalability attributes and the receiving attributes and using the data structure information"; and col.14, lines 3-21: "the receiving attributes to the transcoder thereby enable the transcoder to provide the scaled version of the formatted data…the single bit-stream of formatted media data generated by the transcoder 90 and 91 will provide formatted media data that is adapted to the receiving attributes of both of the receiving destinations 93 and 94 and transcoder 92 generates individual formatted media data bit-streams each adapted to the capabilities of one of receiving destinations 93 and 94").

Mukherjee does not explicitly teach wherein the media characteristics of the multimedia data comprise at least one of the following: a number of frames, or a sampling rate of audio content.

Maes teaches wherein the media characteristics of the multimedia data comprise at least one of the following: a number of frames, or a sampling rate of audio content, (see col.16, lines 3-11: "a File Header which, in general, defines information regarding…

the size of the file… sampling frequency…"; and col.17, lines 22-24, 26-29, and 31-42: "a Speech Segment Header will specify the number of frames for a given Segment").

It would have been obvious to a person of ordinary skill in the art at the time the invention was made to modify the system of Mukherjee in view of Maes so that the media characteristics of the multimedia data comprise at least one of the following: a number of frames, or a sampling rate of audio content. One would be motivated to do so because Maes teaches that such implementation which is generally known as a RECOVC file format that allows for real-time distributed **conversational** interactions (emphasis added: see col.15, lines 60-65).

Mukherjee does not explicitly teach that the data or content is a message.

Maes teaches that the data or content is a message (see col.3, lines 19-29: "real-time conversational computing" and col.7, lines 44-53: "encoded audio data").

Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to modify the system of Mukherjee in view of Maes so that the data or content is a message because the type of data does not functionally relate to the steps in the method claimed and because the subjective interpretation of the data does not patentably distinguish the claimed invention.

As per **claim 11**, Mukherjee teaches a terminal comprising a processor configured to:

determine media characteristics of a multimedia data sufficient in detail to enable a messaging terminal to determine whether the multimedia data should be transcoded

based only on a comparison of actual or assumed multimedia capabilities of a receiving terminal and the inserted media characteristics (see col.3, lines 42-52: “The media source provides scalable encoded media data in a format including first and second portion where the first portion corresponds at least to non-media type specific scalability attributes of the original encoded media data“; and col.14, lines 3-21: “the receiving attributes to the transcoder thereby enable the transcoder to provide the scaled version of the formatted data…the single bit-stream of formatted media data generated by the transcoder 90 and 91 will provide formatted media data that is adapted to the receiving attributes of both of the receiving destinations 93 and 94 and transcoder 92 generates individual formatted media data bit-streams each adapted to the capabilities of one of receiving destinations 93 and 94”), wherein the multimedia data has a header portion and a body portion, and the media characteristics of the multimedia data are inserted into a field in the header portion of the multimedia data (see Fig.3A; Fig.3B; and col.7, lines 1-25: “If however the flag indicates that the parcel is scalable and non-media type specific format compliant, then the component description follows in the header”); and

insert the media characteristics of the multimedia data into the multimedia data (see col.3, lines 42-52: “The media source provides scalable encoded media data in a format including first and second portion... “).

Mukherjee does not explicitly teach wherein the media characteristics of the multimedia data comprise at least one of the following: a number of frames, or a sampling rate of audio content.

Maes teaches wherein the media characteristics of the multimedia data comprise at least one of the following: a number of frames, or a sampling rate of audio content, (see col.16, lines 3-11: "a File Header which, in general, defines information regarding… the size of the file… sampling frequency…"; and col.17, lines 22-24, 26-29, and 31-42: "a Speech Segment Header will specify the number of frames for a given Segment").

It would have been obvious to a person of ordinary skill in the art at the time the invention was made to modify the system of Mukherjee in view of Maes so that the media characteristics of the multimedia data comprise at least one of the following: a number of frames, or a sampling rate of audio content. One would be motivated to do so because Maes teaches that such implementation which is generally known as a RECOVC file format that allows for real-time distributed **conversational** interactions (emphasis added: see col.15, lines 60-65).

Mukherjee does not explicitly teach that the data or content is a message.

Maes teaches that the data or content is a message (see col.3, lines 19-29: "real-time conversational computing" and col.7, lines 44-53: "encoded audio data").

Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to modify the system of Mukherjee in view of Maes so that the data or content is a message because the type of data does not functionally relate to the steps in the method claimed and because the subjective interpretation of the data does not patentably distinguish the claimed invention.

As per **claim 12**, Mukherjee teaches a messaging server comprising a processor configured to:

obtain media characteristics of a multimedia data that are inserted into the multimedia data intended for a receiving terminal (see col.3, lines 42-52: “The media source provides scalable encoded media data in a format including first and second portion where the first portion corresponds at least to non-media type specific scalability attributes of the original encoded media data“; and col.14, lines 3-21: “the receiving attributes to the transcoder thereby enable the transcoder to provide the scaled version of the formatted data…the single bit-stream of formatted media data generated by the transcoder 90 and 91 will provide formatted media data that is adapted to the receiving attributes of both of the receiving destinations 93 and 94 and transcoder 92 generates individual formatted media data bit-streams each adapted to the capabilities of one of receiving destinations 93 and 94”), wherein the multimedia data has a header portion and a body portion, and the media characteristics of the multimedia data are inserted into a field in the header portion of the multimedia data (see Fig.3A; Fig.3B; and col.7, lines 1-25: “If however the flag indicates that the parcel is scalable and non-media type specific format compliant, then the component description follows in the header”); and

decide whether the multimedia data should be transcoded based only on comparing the media characteristics of the multimedia data with actual or assumed multimedia capabilities of the receiving terminal (see col.3, lines 56-62: “The transcoder transcodes the formatted original scalable encoded media data prior to delivery to the media destination to generate a scaled version of the formatted original scalable

encoded media data, based on matching the scalability attributes and the receiving attributes and using the data structure information"; and col.14, lines 3-21: "the receiving attributes to the transcoder thereby enable the transcoder to provide the scaled version of the formatted data…the single bit-stream of formatted media data generated by the transcoder 90 and 91 will provide formatted media data that is adapted to the receiving attributes of both of the receiving destinations 93 and 94 and transcoder 92 generates individual formatted media data bit-streams each adapted to the capabilities of one of receiving destinations 93 and 94").

Mukherjee does not explicitly teach wherein the media characteristics of the multimedia data comprise at least one of the following: a number of frames, or a sampling rate of audio content.

Maes teaches wherein the media characteristics of the multimedia data comprise at least one of the following: a number of frames, or a sampling rate of audio content, (see col.16, lines 3-11: "a File Header which, in general, defines information regarding… the size of the file… sampling frequency…"; and col.17, lines 22-24, 26-29, and 31-42: "a Speech Segment Header will specify the number of frames for a given Segment").

It would have been obvious to a person of ordinary skill in the art at the time the invention was made to modify the system of Mukherjee in view of Maes so that the media characteristics of the multimedia data comprise at least one of the following: a number of frames, or a sampling rate of audio content. One would be motivated to do so because Maes teaches that such implementation which is generally known as a

RECOVC file format that allows for real-time distributed **conversational** interactions (emphasis added: see col.15, lines 60-65).

Mukherjee does not explicitly teach that the data or content is a message.

Maes teaches that the data or content is a message (see col.3, lines 19-29: "real-time conversational computing" and col.7, lines 44-53: "encoded audio data").

Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to modify the system of Mukherjee in view of Maes so that the data or content is a message because the type of data does not functionally relate to the steps in the method claimed and because the subjective interpretation of the data does not patentably distinguish the claimed invention.

As per **claim 13**, Mukherjee teaches a system, comprising a terminal and a messaging server wherein:

the sending terminal is configured to insert, into a multimedia data for a receiving terminal, media characteristics of the multimedia data sufficient in detail to enable determining whether the multimedia data should be transcoded to accommodate multimedia capabilities of the receiving terminal (see col.3, lines 42-52: "The media source provides scalable encoded media data in a format including first and second portion where the first portion corresponds at least to non-media type specific scalability attributes of the original encoded media data"; and col.14, lines 3-21: "the receiving attributes to the transcoder thereby enable the transcoder to provide the scaled version of the formatted data…the single bit-stream of formatted media data generated by the

transcoder 90 and 91 will provide formatted media data that is adapted to the receiving attributes of both of the receiving destinations 93 and 94 and transcoder 92 generates individual formatted media data bit-streams each adapted to the capabilities of one of receiving destinations 93 and 94"), wherein the multimedia data has a header portion and a body portion, and the media characteristics of the multimedia data are inserted into a field in the header portion of the multimedia data (see Fig.3A; Fig.3B; and col.7, lines 1-25: "If however the flag indicates that the parcel is scalable and non-media type specific format compliant, then the component description follows in the header"); and

the messaging server is configured to read the media characteristics of the multimedia data and decide whether the multimedia data should be transcoded based only on a comparison of media characteristics and actual or assumed multimedia capabilities of the receiving terminal (see col.3, lines 56-62: "The transcoder transcodes the formatted original scalable encoded media data prior to delivery to the media destination to generate a scaled version of the formatted original scalable encoded media data, based on matching the scalability attributes and the receiving attributes and using the data structure information"; and col.14, lines 3-21: "the receiving attributes to the transcoder thereby enable the transcoder to provide the scaled version of the formatted data…the single bit-stream of formatted media data generated by the transcoder 90 and 91 will provide formatted media data that is adapted to the receiving attributes of both of the receiving destinations 93 and 94 and transcoder 92 generates individual formatted media data bit-streams each adapted to the capabilities of one of receiving destinations 93 and 94").

Mukherjee does not explicitly teach wherein the media characteristics of the multimedia data comprise at least one of the following: a number of frames, or a sampling rate of audio content.

Maes teaches wherein the media characteristics of the multimedia data comprise at least one of the following: a number of frames, or a sampling rate of audio content, (see col.16, lines 3-11: "a File Header which, in general, defines information regarding… the size of the file… sampling frequency…"; and col.17, lines 22-24, 26-29, and 31-42: "a Speech Segment Header will specify the number of frames for a given Segment").

It would have been obvious to a person of ordinary skill in the art at the time the invention was made to modify the system of Mukherjee in view of Maes so that the media characteristics of the multimedia data comprise at least one of the following: a number of frames, or a sampling rate of audio content. One would be motivated to do so because Maes teaches that such implementation which is generally known as a RECOVC file format that allows for real-time distributed **conversational** interactions (emphasis added: see col.15, lines 60-65).

Mukherjee does not explicitly teach that the data or content is a message.

Maes teaches that the data or content is a message (see col.3, lines 19-29: "real-time conversational computing" and col.7, lines 44-53: "encoded audio data").

Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to modify the system of Mukherjee in view of Maes so that the data or content is a message because the type of data does not functionally

relate to the steps in the method claimed and because the subjective interpretation of the data does not patentably distinguish the claimed invention.

As per **claim 21**, Mukherjee teaches a method for use by a terminal comprising:

determining media characteristics for media components of a multimedia data intended for a receiving terminal, wherein the media characteristics of the multimedia data are sufficient in detail to enable determining whether the multimedia data should be transcoded to accommodate multimedia capabilities of the receiving terminal (see col.3, lines 42-52: "The media source provides scalable encoded media data in a format including first and second portion where the first portion corresponds at least to non-media type specific scalability attributes of the original encoded media data"; and col.14, lines 3-21: "the receiving attributes to the transcoder thereby enable the transcoder to provide the scaled version of the formatted data…the single bit-stream of formatted media data generated by the transcoder 90 and 91 will provide formatted media data that is adapted to the receiving attributes of both of the receiving destinations 93 and 94 and transcoder 92 generates individual formatted media data bit-streams each adapted to the capabilities of one of receiving destinations 93 and 94"), wherein the multimedia data has a header portion and a body portion, and the media characteristics of the multimedia data are inserted into a field in the header portion of the multimedia data (see Fig.3A; Fig.3B; and col.7, lines 1-25: "If however the flag indicates that the parcel is scalable and non-media type specific format compliant, then the component description follows in the header"); and

inserting the media characteristics of the multimedia data into the multimedia data (see col.3, lines 42-52: “The media source provides scalable encoded media data in a format including first and second portion... “).

Mukherjee does not explicitly teach wherein the media characteristics of the multimedia data comprise at least one of the following: a number of frames, or a sampling rate of audio content.

Maes teaches wherein the media characteristics of the multimedia data comprise at least one of the following: a number of frames, or a sampling rate of audio content, (see col.16, lines 3-11: “a File Header which, in general, defines information regarding… the size of the file… sampling frequency…“; and col.17, lines 22-24, 26-29, and 31-42: “a Speech Segment Header will specify the number of frames for a given Segment”).

It would have been obvious to a person of ordinary skill in the art at the time the invention was made to modify the system of Mukherjee in view of Maes so that the media characteristics of the multimedia data comprise at least one of the following: a number of frames, or a sampling rate of audio content. One would be motivated to do so because Maes teaches that such implementation which is generally known as a RECOVC file format that allows for real-time distributed **conversational** interactions (emphasis added: see col.15, lines 60-65).

Mukherjee does not explicitly teach that the data or content is a message.

Maes teaches that the data or content is a message (see col.3, lines 19-29: “real-time conversational computing” and col.7, lines 44-53: “encoded audio data”).

Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to modify the system of Mukherjee in view of Maes so that the data or content is a message because the type of data does not functionally relate to the steps in the method claimed and because the subjective interpretation of the data does not patentably distinguish the claimed invention.

As per **claim 24**, Mukherjee teaches a method for use by a messaging server comprising:

obtaining media characteristics of the multimedia data that are inserted into the multimedia data intended for a receiving terminal (see col.3, lines 42-52: “The media source provides scalable encoded media data in a format including first and second portion where the first portion corresponds at least to non-media type specific scalability attributes of the original encoded media data“; and col.14, lines 3-21: “the receiving attributes to the transcoder thereby enable the transcoder to provide the scaled version of the formatted data…the single bit-stream of formatted media data generated by the transcoder 90 and 91 will provide formatted media data that is adapted to the receiving attributes of both of the receiving destinations 93 and 94 and transcoder 92 generates individual formatted media data bit-streams each adapted to the capabilities of one of receiving destinations 93 and 94”), wherein the multimedia data has a header portion and a body portion, and the media characteristics of the multimedia data are inserted into a field in the header portion of the multimedia data (see Fig.3A; Fig.3B; and col.7,

lines 1-25: “If however the flag indicates that the parcel is scalable and non-media type specific format compliant, then the component description follows in the header”); and

deciding whether the multimedia data should be transcoded based only on a comparison of the inserted media characteristics and actual or assumed multimedia capabilities of the receiving terminal (see col.3, lines 56-62: “The transcoder transcodes the formatted original scalable encoded media data prior to delivery to the media destination to generate a scaled version of the formatted original scalable encoded media data, based on matching the scalability attributes and the receiving attributes and using the data structure information”; and col.14, lines 3-21: “the receiving attributes to the transcoder thereby enable the transcoder to provide the scaled version of the formatted data…the single bit-stream of formatted media data generated by the transcoder 90 and 91 will provide formatted media data that is adapted to the receiving attributes of both of the receiving destinations 93 and 94 and transcoder 92 generates individual formatted media data bit-streams each adapted to the capabilities of one of receiving destinations 93 and 94”).

Mukherjee does not explicitly teach wherein the media characteristics of the multimedia data comprise at least one of the following: a number of frames, or a sampling rate of audio content.

Maes teaches wherein the media characteristics of the multimedia data comprise at least one of the following: a number of frames, or a sampling rate of audio content, (see col.16, lines 3-11: “a File Header which, in general, defines information regarding…

the size of the file… sampling frequency…"; and col.17, lines 22-24, 26-29, and 31-42: "a Speech Segment Header will specify the number of frames for a given Segment").

It would have been obvious to a person of ordinary skill in the art at the time the invention was made to modify the system of Mukherjee in view of Maes so that the media characteristics of the multimedia data comprise at least one of the following: a number of frames, or a sampling rate of audio content. One would be motivated to do so because Maes teaches that such implementation which is generally known as a RECOVC file format that allows for real-time distributed **conversational** interactions (emphasis added: see col.15, lines 60-65).

Mukherjee does not explicitly teach that the data or content is a message.

Maes teaches that the data or content is a message (see col.3, lines 19-29: "real-time conversational computing" and col.7, lines 44-53: "encoded audio data").

Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to modify the system of Mukherjee in view of Maes so that the data or content is a message because the type of data does not functionally relate to the steps in the method claimed and because the subjective interpretation of the data does not patentably distinguish the claimed invention.

As per **claim 27**, Mukherjee teaches an apparatus for transmitting a multimedia data, the apparatus comprising a processor configured to:

determine media characteristics for a media component of the multimedia data (see col.14, lines 3-21: "the receiving attributes to the transcoder thereby enable the

transcoder to provide the scaled version of the formatted data…the single bit-stream of formatted media data generated by the transcoder 90 and 91 will provide formatted media data that is adapted to the receiving attributes of both of the receiving destinations 93 and 94 and transcoder 92 generates individual formatted media data bit-streams each adapted to the capabilities of one of receiving destinations 93 and 94"), wherein the multimedia data has a header portion and a body portion, and the media characteristics of the multimedia data are inserted into a field in the header portion of the multimedia data (see Fig.3A; Fig.3B; and col.7, lines 1-25: "If however the flag indicates that the parcel is scalable and non-media type specific format compliant, then the component description follows in the header"); and

insert the media characteristics of the multimedia data into the multimedia data (see col.3, lines 42-52: "The media source provides scalable encoded media data in a format including first and second portion... ").

Mukherjee does not explicitly teach wherein the media characteristics of the multimedia data comprise at least one of the following: a number of frames, or a sampling rate of audio content.

Maes teaches wherein the media characteristics of the multimedia data comprise at least one of the following: a number of frames, or a sampling rate of audio content, (see col.16, lines 3-11: "a File Header which, in general, defines information regarding… the size of the file… sampling frequency…"; and col.17, lines 22-24, 26-29, and 31-42: "a Speech Segment Header will specify the number of frames for a given Segment").

It would have been obvious to a person of ordinary skill in the art at the time the invention was made to modify the system of Mukherjee in view of Maes so that the media characteristics of the multimedia data comprise at least one of the following: a number of frames, or a sampling rate of audio content. One would be motivated to do so because Maes teaches that such implementation which is generally known as a RECOVC file format that allows for real-time distributed **conversational** interactions (emphasis added: see col.15, lines 60-65).

Mukherjee does not explicitly teach that the data or content is a message.

Maes teaches that the data or content is a message (see col.3, lines 19-29: "real-time conversational computing" and col.7, lines 44-53: "encoded audio data").

Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to modify the system of Mukherjee in view of Maes so that the data or content is a message because the type of data does not functionally relate to the steps in the method claimed and because the subjective interpretation of the data does not patentably distinguish the claimed invention.

As per **claim 30**, Mukherjee teaches a method for transmitting a multimedia data, the method comprising:

determining media characteristics for a media component of the multimedia data (see col.14, lines 3-21: "the receiving attributes to the transcoder thereby enable the transcoder to provide the scaled version of the formatted data…the single bit-stream of formatted media data generated by the transcoder 90 and 91 will provide formatted

media data that is adapted to the receiving attributes of both of the receiving destinations 93 and 94 and transcoder 92 generates individual formatted media data bit-streams each adapted to the capabilities of one of receiving destinations 93 and 94"), wherein the multimedia data has a header portion and a body portion, and the media characteristics of the multimedia data are inserted into a field in the header portion of the multimedia data (see Fig.3A; Fig.3B; and col.7, lines 1-25: "If however the flag indicates that the parcel is scalable and non-media type specific format compliant, then the component description follows in the header"); and

inserting the media characteristics of the multimedia data in the multimedia data (see col.3, lines 42-52: "The media source provides scalable encoded media data in a format including first and second portion... ").

Mukherjee does not explicitly teach wherein the media characteristics of the multimedia data comprise at least one of the following: a number of frames, or a sampling rate of audio content.

Maes teaches wherein the media characteristics of the multimedia data comprise at least one of the following: a number of frames, or a sampling rate of audio content, (see col.16, lines 3-11: "a File Header which, in general, defines information regarding… the size of the file… sampling frequency…"; and col.17, lines 22-24, 26-29, and 31-42: "a Speech Segment Header will specify the number of frames for a given Segment").

It would have been obvious to a person of ordinary skill in the art at the time the invention was made to modify the system of Mukherjee in view of Maes so that the media characteristics of the multimedia data comprise at least one of the following: a

number of frames, or a sampling rate of audio content. One would be motivated to do so because Maes teaches that such implementation which is generally known as a RECOVC file format that allows for real-time distributed **conversational** interactions (emphasis added: see col.15, lines 60-65).

Mukherjee does not explicitly teach that the data or content is a message.

Maes teaches that the data or content is a message (see col.3, lines 19-29: "real-time conversational computing" and col.7, lines 44-53: "encoded audio data").

Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to modify the system of Mukherjee in view of Maes so that the data or content is a message because the type of data does not functionally relate to the steps in the method claimed and because the subjective interpretation of the data does not patentably distinguish the claimed invention.

As per **claim 33**, Mukherjee teaches an apparatus for processing a multimedia data, the apparatus comprising a processor configured to:

receive media characteristics of a media component of the multimedia data in a field of the multimedia data (see col.3, lines 42-52: "The media source provides scalable encoded media data in a format including first and second portion where the first portion corresponds at least to non-media type specific scalability attributes of the original encoded media data"; and col.14, lines 3-21: "the receiving attributes to the transcoder thereby enable the transcoder to provide the scaled version of the formatted data…the single bit-stream of formatted media data generated by the transcoder 90 and 91 will

provide formatted media data that is adapted to the receiving attributes of both of the receiving destinations 93 and 94 and transcoder 92 generates individual formatted media data bit-streams each adapted to the capabilities of one of receiving destinations 93 and 94"), wherein the multimedia data has a header portion and a body portion, and the media characteristics of the multimedia data are inserted into a field in the header portion of the multimedia data (see Fig.3A; Fig.3B; and col.7, lines 1-25: "If however the flag indicates that the parcel is scalable and non-media type specific format compliant, then the component description follows in the header"); and

determine whether the multimedia data should be transcoded based at least in part on a comparison of the received media characteristics of the multimedia data and actual or assumed multimedia capabilities of a receiving terminal (see col.3, lines 56-62: "The transcoder transcodes the formatted original scalable encoded media data prior to delivery to the media destination to generate a scaled version of the formatted original scalable encoded media data, based on matching the scalability attributes and the receiving attributes and using the data structure information"; and col.14, lines 3-21: "the receiving attributes to the transcoder thereby enable the transcoder to provide the scaled version of the formatted data…the single bit-stream of formatted media data generated by the transcoder 90 and 91 will provide formatted media data that is adapted to the receiving attributes of both of the receiving destinations 93 and 94 and transcoder 92 generates individual formatted media data bit-streams each adapted to the capabilities of one of receiving destinations 93 and 94").

Mukherjee does not explicitly teach wherein the media characteristics of the multimedia data comprise at least one of the following: a number of frames, or a sampling rate of audio content.

Maes teaches wherein the media characteristics of the multimedia data comprise at least one of the following: a number of frames, or a sampling rate of audio content, (see col.16, lines 3-11: "a File Header which, in general, defines information regarding… the size of the file… sampling frequency…"; and col.17, lines 22-24, 26-29, and 31-42: "a Speech Segment Header will specify the number of frames for a given Segment").

It would have been obvious to a person of ordinary skill in the art at the time the invention was made to modify the system of Mukherjee in view of Maes so that the media characteristics of the multimedia data comprise at least one of the following: a number of frames, or a sampling rate of audio content. One would be motivated to do so because Maes teaches that such implementation which is generally known as a RECOVC file format that allows for real-time distributed **conversational** interactions (emphasis added: see col.15, lines 60-65).

Mukherjee does not explicitly teach that the data or content is a message.

Maes teaches that the data or content is a message (see col.3, lines 19-29: "real-time conversational computing" and col.7, lines 44-53: "encoded audio data").

Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to modify the system of Mukherjee in view of Maes so that the data or content is a message because the type of data does not functionally

relate to the steps in the method claimed and because the subjective interpretation of the data does not patentably distinguish the claimed invention.

As per **claim 38**, Mukherjee teaches a method for processing a multimedia data, the method comprising:

receiving media characteristics of a media component of the multimedia data in a field of the multimedia data (see col.3, lines 42-52: “The media source provides scalable encoded media data in a format including first and second portion where the first portion corresponds at least to non-media type specific scalability attributes of the original encoded media data“; and col.14, lines 3-21: “the receiving attributes to the transcoder thereby enable the transcoder to provide the scaled version of the formatted data…the single bit-stream of formatted media data generated by the transcoder 90 and 91 will provide formatted media data that is adapted to the receiving attributes of both of the receiving destinations 93 and 94 and transcoder 92 generates individual formatted media data bit-streams each adapted to the capabilities of one of receiving destinations 93 and 94”), wherein the multimedia data has a header portion and a body portion, and the media characteristics of the multimedia data are inserted into a field in the header portion of the multimedia data (see Fig.3A; Fig.3B; and col.7, lines 1-25: “If however the flag indicates that the parcel is scalable and non-media type specific format compliant, then the component description follows in the header”); and

determining whether the multimedia data should be transcoded based at least in part on a comparison of the received media characteristics of the multimedia data and

actual or assumed multimedia capabilities of a receiving terminal (see col.3, lines 56-62: "The transcoder transcodes the formatted original scalable encoded media data prior to delivery to the media destination to generate a scaled version of the formatted original scalable encoded media data, based on matching the scalability attributes and the receiving attributes and using the data structure information"; and col.14, lines 3-21: "the receiving attributes to the transcoder thereby enable the transcoder to provide the scaled version of the formatted data…the single bit-stream of formatted media data generated by the transcoder 90 and 91 will provide formatted media data that is adapted to the receiving attributes of both of the receiving destinations 93 and 94 and transcoder 92 generates individual formatted media data bit-streams each adapted to the capabilities of one of receiving destinations 93 and 94").

Mukherjee does not explicitly teach wherein the media characteristics of the multimedia data comprise at least one of the following: a number of frames, or a sampling rate of audio content.

Maes teaches wherein the media characteristics of the multimedia data comprise at least one of the following: a number of frames, or a sampling rate of audio content, (see col.16, lines 3-11: "a File Header which, in general, defines information regarding… the size of the file… sampling frequency…"; and col.17, lines 22-24, 26-29, and 31-42: "a Speech Segment Header will specify the number of frames for a given Segment").

It would have been obvious to a person of ordinary skill in the art at the time the invention was made to modify the system of Mukherjee in view of Maes so that the media characteristics of the multimedia data comprise at least one of the following: a

number of frames, or a sampling rate of audio content. One would be motivated to do so because Maes teaches that such implementation which is generally known as a RECOVC file format that allows for real-time distributed **conversational** interactions (emphasis added: see col.15, lines 60-65).

Mukherjee does not explicitly teach that the data or content is a message.

Maes teaches that the data or content is a message (see col.3, lines 19-29: "real-time conversational computing" and col.7, lines 44-53: "encoded audio data").

Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to modify the system of Mukherjee in view of Maes so that the data or content is a message because the type of data does not functionally relate to the steps in the method claimed and because the subjective interpretation of the data does not patentably distinguish the claimed invention.

As per **claim 48**, Mukherjee teaches an apparatus comprising:

means for receiving media characteristics of a multimedia data that are inserted in a filed of the multimedia data (see col.3, lines 42-52: "The media source provides scalable encoded media data in a format including first and second portion where the first portion corresponds at least to non-media type specific scalability attributes of the original encoded media data"; and col.14, lines 3-21: "the receiving attributes to the transcoder thereby enable the transcoder to provide the scaled version of the formatted data…the single bit-stream of formatted media data generated by the transcoder 90 and 91 will provide formatted media data that is adapted to the receiving attributes of both of

the receiving destinations 93 and 94 and transcoder 92 generates individual formatted media data bit-streams each adapted to the capabilities of one of receiving destinations 93 and 94"), wherein the multimedia data has a header portion and a body portion, and the media characteristics of the multimedia data are inserted into a field in the header portion of the multimedia data (see Fig.3A; Fig.3B; and col.7, lines 1-25: "If however the flag indicates that the parcel is scalable and non-media type specific format compliant, then the component description follows in the header"); and

means for determining whether the multimedia data should be transcoded based on a comparison of the media characteristics of the multimedia data and actual or assumed multimedia capabilities of a receiving terminal (see col.3, lines 56-62: "The transcoder transcodes the formatted original scalable encoded media data prior to delivery to the media destination to generate a scaled version of the formatted original scalable encoded media data, based on matching the scalability attributes and the receiving attributes and using the data structure information"; and col.14, lines 3-21: "the receiving attributes to the transcoder thereby enable the transcoder to provide the scaled version of the formatted data…the single bit-stream of formatted media data generated by the transcoder 90 and 91 will provide formatted media data that is adapted to the receiving attributes of both of the receiving destinations 93 and 94 and transcoder 92 generates individual formatted media data bit-streams each adapted to the capabilities of one of receiving destinations 93 and 94").

Mukherjee does not explicitly teach wherein the media characteristics of the multimedia data comprise at least one of the following: a number of frames, or a sampling rate of audio content.

Maes teaches wherein the media characteristics of the multimedia data comprise at least one of the following: a number of frames, or a sampling rate of audio content, (see col.16, lines 3-11: "a File Header which, in general, defines information regarding… the size of the file… sampling frequency…"; and col.17, lines 22-24, 26-29, and 31-42: "a Speech Segment Header will specify the number of frames for a given Segment").

It would have been obvious to a person of ordinary skill in the art at the time the invention was made to modify the system of Mukherjee in view of Maes so that the media characteristics of the multimedia data comprise at least one of the following: a number of frames, or a sampling rate of audio content. One would be motivated to do so because Maes teaches that such implementation which is generally known as a RECOVC file format that allows for real-time distributed **conversational** interactions (emphasis added: see col.15, lines 60-65).

Mukherjee does not explicitly teach that the data or content is a message.

Maes teaches that the data or content is a message (see col.3, lines 19-29: "real-time conversational computing" and col.7, lines 44-53: "encoded audio data").

Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to modify the system of Mukherjee in view of Maes so that the data or content is a message because the type of data does not functionally

relate to the steps in the method claimed and because the subjective interpretation of the data does not patentably distinguish the claimed invention.

DEPENDENT:

As per **claim 2**, which depends on claim 1, Mukherjee further teaches wherein the messaging server sends the multimedia message to a transcoding server if transcoding is needed, and the transcoding server uses the inserted media characteristics of the multimedia message to itself decide if transcoding is needed (see Fig.9).

As per **claim 3**, which depends on claim 1, Mukherjee further teaches wherein the messaging server sends the multimedia message to a transcoding server if transcoding is needed, and the transcoding server uses the inserted media characteristics of the multimedia message to itself decide which parts of the multimedia message need transcoding (see Fig.1).

As per **claim 4**, which depends on claim 1, Mukherjee further teaches wherein the messaging server determines, from the inserted media characteristics of the multimedia message, which parts of the multimedia message need transcoding and sends the multimedia message to a transcoding server if transcoding is needed for any message part, and includes in the multimedia message an indication of which parts of the multimedia message need transcoding (see Fig.9 and col.14, lines 11-21).

As per **claim 5**, which depends on claim 1, Mukherjee further teaches wherein the messaging server determines, from the inserted media characteristics of the

multimedia message, which parts of the multimedia message need transcoding and sends only those message parts requiring transcoding to a transcoding server (see Fig.9 and col.14, lines 11-21).

As per **claim 6**, which depends on claim 1, Mukherjee further teaches wherein the transcoding is performed based on a comparison the inserted media characteristics and the actual or assumed multimedia capabilities of the receiving terminal, without performing an analysis of the multimedia message to determine whether transcoding is needed (see col.3, lines 56-62 and col.5, line 63-col.6, line 2).

As per **claim 7**, which depends on claim 6, Mukherjee further teaches wherein the transcoding is performed without also performing even an analysis to determine which parts of the multimedia message need to be transcoded (see col.5, line 63-col.6, line 2).

As per **claim 8**, which depends on claim 1, Mukherjee further teaches wherein the user agent inserts the media characteristics of the multimedia message into the field in the header of the multimedia message (see Fig.3A and Fig.3B).

As per **claim 9**, which depends on claim 1, Mukherjee further teaches wherein the user agent inserts the media characteristics of the multimedia message into the header field in the body of the multimedia message (see Fig.3A and Fig.3B).

As per **claim 10**, which depends on claim 1, Mukherjee further teaches wherein the media characteristics of the multimedia message include image and video resolution, or number of frames and frame rate of visual content, or sampling rate of audio content (see col.5, lines 35-50).

As per **claim 14**, which depends on claim 13, Mukherjee further teaches wherein the messaging server is further configured to transcode the multimedia message based on the inserted media characteristics and the actual or assumed multimedia capabilities of the receiving terminal, without performing an analysis of the multimedia message to determine media characteristics of the multimedia message relevant to deciding whether transcoding is needed (see col.3, lines 56-62 and col.5, line 63-col.6, line 2).

As per **claim 15**, which depends on claim 13, Mukherjee further teaches wherein the messaging server is further configured to send the multimedia message to a transcoding server if transcoding is needed, and the transcoding server is configured to use the inserted media characteristics to decide if transcoding is needed (see col.3, lines 15-22).

As per **claim 16**, which depends on claim 13, Mukherjee further teaches wherein the messaging server is further configured to send the multimedia message to a transcoding server if transcoding is needed, and the transcoding server is configured to use the inserted media characteristics to decide which parts of the message need transcoding (see Fig.9 and col.14, lines 11-21).

As per **claim 17**, which depends on claim 13, Mukherjee further teaches wherein the messaging server is further configured to determine, from the inserted media characteristics, which parts of the multimedia message need transcoding and to send the multimedia message to a transcoding server if transcoding is needed for any message part, and to include in the multimedia message an indication of which parts of the multimedia message need transcoding (see Fig.9 and col.14, lines 11-21).

As per **claim 18**, which depends on claim 13, Mukherjee teaches of further comprising a transcoding engine for transcoding the multimedia message, wherein the transcoding is performed based on a comparison of the inserted media characteristics and the actual or assumed multimedia capabilities of the receiving terminal, without performing an analysis of the multimedia message to determine whether transcoding is needed (see col.3, lines 56-62 and col.5, line 63-col.6, line 2).

As per **claim 19**, Mukherjee further teaches a computer program product comprising: a computer readable storage structure embodying computer program code thereon for execution by a computer processor in a sending terminal, wherein said computer program code includes instructions for performing the method of claim 21 (see col.14, lines 22-25).

As per **claim 20**, Mukherjee further teaches a computer program product comprising: a computer readable storage structure embodying computer program code thereon for execution by a computer processor in a messaging server, wherein said computer program code includes instructions for performing the method of claim 24 (see col.14, lines 22-25).

As per **claims 36 and 41**, which respectively depend on claims 33 and 38, Mukherjee further teaches wherein the processor is further configured to: determine media components of the multimedia message which need transcoding based at least on the respective received media characteristics (see col.3, lines 15-22); and transmit at least a part of the multimedia message to a transcoding server (see Fig.9).

As per **claims 37 and 42**, which respectively depend on claims 33 and 38, Mukherjee further teaches wherein the processor is further configured to: transcode a media component of the multimedia message based at least on the actual or assumed multimedia capabilities of the receiving terminal (see col.3, lines 15-22 & 54-62).

(10) Response to Argument

The examiner summarizes the various points raised by the appellant and addresses replies individually.

As per appellants' arguments filed December 22, 2010, the appellant(s) argue in substance:

(a) That Mukherjee and Maes does not disclose, teach or suggest all the elements of the recited independent claims (see Appeal Brief, page 10-13). The appellant(s) further argues that the limitation above is not taught because both Mukherjee and Maes relate to processing "multimedia content" and not processing "multimedia message" (see Appeal Brief, pages 10-12).

In response to (a), the appellant(s) seem to be asserting that the limitations of the independent claims are not taught because "multimedia message" is very different than "multimedia content" as understood by a person of ordinary skill in the art. The examiner disagrees. Multimedia content can include or comprise multimedia message and multimedia message can include or comprise multimedia content, and therefore

can mean the same. Mukherjee teaches the media data/content as: streaming video (see col.2, lines 7-16); rich media comprising, image, audio, and animation (see col.2, lines 52-61); multiple media components such as video and audio packaged together (see col.6, lines 59-67); and so on. Mukherjee further states that his invention "is applicable to any scalable encoded bit-stream generated by any technique" (see page 5, lines 28-31). The examiner's conclusion is also supported by the appellant(s) understand that "the present invention relates to the field of the multimedia adaptation (transcoding) of such a multimedia message, where one skilled in the art would appreciate that such multimedia messages form part of Multimedia Messaging Service (MMS), and Session Initiation Protocol (SIP), as a standard way to send messages **that include multimedia content** to and from mobile phones" (see Appeal Brief page 4).

Nonetheless, even if it is assumed for the sake of argument that a multimedia message is something very different than a multimedia data or a multimedia content of Mukherjee, the rejections above are based on Maes teaching this missing limitation pertaining to a "message". Maes teaches a system for real-time **conversational** computing (emphasis added: see col.3, lines 19-28) employing a protocol for voice, video, and data conferencing over Internet Protocol (IP) (see col.29, lines 31-45 and rejection above). Video conferencing to one of ordinary skill in the art, is clearly considered multimedia messaging.

The appellant(s) assert that multimedia messaging is something very different from multimedia data or content without providing sufficient evidence to support such assertion. By merely stating that one of ordinary skill in the art would interpret

multimedia message to be different from multimedia data/content, clearly lacks evidence to overcome the rejections above. Furthermore, it is noted that although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993). If the appellant(s) are suggesting a system employing a multimedia messaging protocol such as MMS or SMS, such limitations should be explicitly recited within the claim language. As the claims currently stand, the invention is not limited to mobile devices or protocols know in the art pertaining to mobile devices merely by employing "multimedia message" in the claim language, as the appellant(s) seem to be asserting.

(b) That it would not be obvious to combine the teachings of Maes into the system of Mukherjee (see Appeal Brief pages 13-14).

In response to (b), the test for obviousness is not whether the features of a secondary reference may be bodily incorporated into the structure of the primary reference; nor is it that the claimed invention must be expressly suggested in any one or all of the references. Rather, the test is what the combined teachings of the references would have suggested to those of ordinary skill in the art. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981). Clearly incorporating "number of frames, or sampling rate of audio content" would suggest to one of ordinary skill in the art that the adaptation of the media data to the capabilities of the receiving device can be achieved (see Mukherjee: col.14, lines 15-21)

(11) Related Proceeding(s) Appendix

There are no copies of any decisions rendered by a court or the Board in any proceedings.

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

/Michael Won/

Primary Examiner

March 10, 2011

CONFEREES:

/Yasin M. Barqadle/

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Supervisory Patent Examiner, Art Unit 2456